

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD PHILLIP MCKENNA,  
Plaintiff,  
v.  
T. CISNEROS, et al.,  
Defendants.

No. 2:22-cv-01294-KJM-CKD P

ORDER AND  
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

**I. Procedural History**

On October 25, 2022, this court dismissed plaintiff's 116 page complaint for failing to state a claim. Plaintiff was provided with the relevant legal standards governing his potential claims and granted leave to file an amended complaint. However, the court limited any amended complaint to no more than 25 pages based on plaintiff's verbose and repetitious filings. Plaintiff was additionally warned against joining unrelated claims and defendants into a single action. By separate order, plaintiff's multiple motions for a preliminary injunction were denied without prejudice by the district judge assigned to this case on December 15, 2022. Since that time, plaintiff has filed two additional motions for a temporary restraining order and three motions for

1 the appointment of counsel. See ECF Nos. 37, 40 42, 50-51. Also pending before the court for  
2 screening is plaintiff's second amended complaint.<sup>1</sup> ECF No. 49.

## 3 II. Screening Requirement

4 As plaintiff was previously advised, the court is required to screen complaints brought by  
5 prisoners seeking relief against a governmental entity or officer or employee of a governmental  
6 entity. 28 U.S.C. § 1915A(a). The court will independently dismiss a complaint or portion  
7 thereof if the prisoner has raised claims that are legally "frivolous or malicious," that fail to state  
8 a claim upon which relief may be granted, or that seek monetary relief from a defendant who is  
9 immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

## 10 III. Allegations in the Second Amended Complaint

11 Plaintiff once again names 29 defendants at four different prisons in California, some of  
12 whom are identified by name and others identified only as John Does. ECF No. 49. He is suing  
13 each defendant in their individual capacity for monetary damages.

14 In his first claim for relief, plaintiff asserts that he has been retaliated against in violation  
15 of the First Amendment through a wide-spread campaign of harassment to prevent him from  
16 exhausting his administrative grievances in order to properly sue defendants. Specifically,  
17 plaintiff contends that on October 25, 2020 six unnamed officers at the California Substance  
18 Abuse Treatment Facility ("CSATF") came to his cell, took him to administrative segregation  
19 based on fabricated charges, and destroyed 4 boxes of his legal property. As the warden of  
20 CSATF, plaintiff sues defendant Cisneros in his supervisory capacity for these retaliatory actions  
21 of the individual officers employed at the same prison.

22 Within the same claim for relief, plaintiff also alleges that defendants Leahy, Garcia,  
23 Tyler, Coronado, Sayama, Diaz, Brown, Dunn, Valdez and Knudson used excessive force against  
24 him on February 18, 2021 on orders from defendant Cisneros. Plaintiff generally explains that he  
25 was repeatedly hit in the face, chest and stomach and that chemicals were sprayed in his cell

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26 <sup>1</sup> Plaintiff filed a first amended complaint that was docketed on February 27, 2023. ECF No. 47.  
27 However, plaintiff filed a second amended complaint before the court could screen the amended  
28 complaint. Because the second amended complaint supersedes the amended complaint as a  
matter of law, the court will proceed to screen the second amended complaint.

1 causing him bruises and additional injuries. However, plaintiff does not specify what individual  
2 actions each of these defendants at CSATF engaged in that amounted to excessive force.

3 After being transferred to Corcoran State Prison two days later, plaintiff received medical  
4 attention for his injuries. Plaintiff also contends that while at Corcoran State Prison, the warden  
5 failed to protect him from being attacked by other prisoners after correctional officers used  
6 derogatory prison slang to make him a target.

7 After being transferred to Mule Creek State Prison, plaintiff asserts that he was denied a  
8 custody classification hearing so that he could not inform state officials about the violation of his  
9 rights at other prisons. However, plaintiff continued to write to outside lawyers about his  
10 mistreatment by prison officials. The warden and other named correctional officers at Mule  
11 Creek also let other prisoners steal his property when he was transferred to administrative  
12 segregation.

13 Plaintiff was subsequently transferred to the California Medical Facility (“CMF”) where  
14 he was denied his annual classification hearing in retaliation for filing the instant lawsuit. On  
15 May 28, 2022 the water in plaintiff’s cell was turned off and he was denied yard access until he  
16 weighed himself. Plaintiff refused and boarded up the window to his cell leading to the use of  
17 excessive force during his cell extraction by defendants Covello, Sweeten, Troth, Heath, Aguilar,  
18 Rota, Tarrant, and a John Doe Sergeant.

19 In his second claim for relief, plaintiff raises supplemental state law assault and battery  
20 claims against defendants Leahy, Garcia, Tyler, Tumacder, Brown, Fagundes, Govea, Silva,  
21 Coronado, Sayama, Diaz, Valdez, Knudson and Warden Cisneros on February 18, 2021. Plaintiff  
22 raises additional state law assault and battery claims against the defendants at CMF who used  
23 excessive force against him on May 28, 2022.

24 In his third claim for relief, plaintiff alleges that defendant Cisneros, the warden at  
25 CSATF, failed to protect him from harm by other inmates in violation of his Eighth Amendment  
26 rights and set him up to be attacked by these inmates. While at Corcoran State Prison, Warden  
27 Campbell also conspired to have plaintiff attacked and killed by other inmates. Lastly, plaintiff  
28 reiterates his claims against defendants at CMF and Mule Creek State Prisons that he raised in

1 claim one.

2 By way of relief, plaintiff seeks compensatory and punitive damages as well as an order  
3 protecting him from harm and the opportunity to prove his innocence on his commitment offense  
4 from Orange County, California.

#### 5 **IV. Legal Standards**

6 The following legal standards are being provided to plaintiff based on his pro se status as  
7 well as the nature of the allegations in the amended complaint.

##### 8 **A. Linkage**

9 The civil rights statute requires that there be an actual connection or link between the  
10 actions of the defendants and the deprivation alleged to have been suffered by plaintiff. See  
11 Monell v. Department of Social Services, 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362  
12 (1976). The Ninth Circuit has held that “[a] person ‘subjects’ another to the deprivation of a  
13 constitutional right, within the meaning of section 1983, if he does an affirmative act, participates  
14 in another’s affirmative acts or omits to perform an act which he is legally required to do that  
15 causes the deprivation of which complaint is made.” Johnson v. Duffy, 588 F.2d 740, 743 (9th  
16 Cir. 1978) (citation omitted). In order to state a claim for relief under section 1983, plaintiff must  
17 link each named defendant with some affirmative act or omission that demonstrates a violation of  
18 plaintiff’s federal rights.

##### 19 **B. Supervisory Liability**

20 Government officials may not be held liable for the unconstitutional conduct of their  
21 subordinates under a theory of respondeat superior. Ashcroft v. Iqbal, 556 U.S. 662, 677 (2009)  
22 (“In a § 1983 suit ... the term “supervisory liability” is a misnomer. Absent vicarious liability,  
23 each Government official, his or her title notwithstanding is only liable for his or her own  
24 misconduct.”). When the named defendant holds a supervisory position, the causal link between  
25 the defendant and the claimed constitutional violation must be specifically alleged; that is, a  
26 plaintiff must allege some facts indicating that the defendant either personally participated in or  
27 directed the alleged deprivation of constitutional rights or knew of the violations and failed to act  
28 to prevent them. See Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979); Taylor v. List, 880 F.2d

1040, 1045 (9th Cir. 1989); Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir. 1978).

### 2 C. Joinder of Multiple Claims and Parties

3 A plaintiff may properly assert multiple claims against a single defendant in a civil action.  
 4 Fed. Rule Civ. P. 18. In addition, a plaintiff may join multiple defendants in one action where  
 5 “any right to relief is asserted against them jointly, severally, or in the alternative with respect to  
 6 or arising out of the same transaction, occurrence, or series of transactions and occurrences” and  
 7 “any question of law or fact common to all defendants will arise in the action.” Fed. R. Civ. P.  
 8 20(a)(2). However, unrelated claims against different defendants must be pursued in separate  
 9 lawsuits. See George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). This rule is intended “not only  
 10 to prevent the sort of morass [a multiple claim, multiple defendant] suit produce[s], but also to  
 11 ensure that prisoners pay the required filing fees—for the Prison Litigation Reform Act limits to 3  
 12 the number of frivolous suits or appeals that any prisoner may file without prepayment of the  
 13 required fees. 28 U.S.C. § 1915(g).” Id.

### 14 D. Retaliation

15 “Within the prison context, a viable claim of First Amendment retaliation entails five  
 16 basic elements: (1) An assertion that a state actor took some adverse action against an inmate (2)  
 17 because of (3) that prisoner's protected conduct, and that such action (4) chilled the inmate's  
 18 exercise of his First Amendment rights, and (5) the action did not reasonably advance a legitimate  
 19 correctional goal.” Rhodes v. Robinson, 408 F.3d 559 567-68 (9th Cir. 2005) (citations omitted).  
 20 Filing an inmate grievance is a protected action under the First Amendment. Bruce v. Ylst, 351  
 21 F.3d 1283, 1288 (9th Cir. 2003). A prison transfer may also constitute an adverse action. See  
 22 Rhodes v. Robinson, 408 F.3d 559, 568 (9th Cir. 2005) (recognizing an arbitrary confiscation and  
 23 destruction of property, initiation of a prison transfer, and assault as retaliation for filing inmate  
 24 grievances); Pratt v. Rowland, 65 F.3d 802, 806 (9th Cir. 1995) (finding that a retaliatory prison  
 25 transfer and double-cell status can constitute a cause of action for retaliation under the First  
 26 Amendment).

### 27 E. Excessive Force

28 The Eighth Amendment prohibits prison officials from inflicting cruel and unusual

1 punishment on inmates which has been defined as “the unnecessary and wanton infliction of  
2 pain.” Whitley v. Albers, 475 U.S. 312, 319 (1986). “[W]henever prison officials stand accused  
3 of using excessive physical force in violation of the Cruel and Unusual Punishments Clause, the  
4 core judicial inquiry is... whether force was applied in a good-faith effort to maintain or restore  
5 discipline, or maliciously and sadistically to cause harm.” Hudson v. McMillan, 503 U.S. 1, 7  
6 (1992). The court’s inquiry into an excessive force claim focuses on the extent of the prisoner’s  
7 injury, the need for application of force, the relationship between that need and the amount of  
8 force used, the threat reasonably perceived by the responsible officials, and any efforts made to  
9 temper the severity of a forceful response. Hudson, 503 U.S. at 7 (1992) (quotation marks and  
10 citations omitted). While the absence of a serious injury is relevant to the Eighth Amendment  
11 inquiry, it does not end it. Hudson, 503 U.S. at 7. The malicious and sadistic use of force to  
12 cause harm always violates contemporary standards of decency in violation of the Eighth  
13 Amendment. Whitley, 475 U.S. at 327.

#### 14 **F. Access to Courts**

15 Plaintiff has a constitutional right of access to the courts and prison officials may not  
16 actively interfere with his right to litigate. Silva v. Vittorio, 658 F.3d 1090, 1101-02 (9th Cir.  
17 2011). Prisoners also enjoy some degree of First Amendment rights in their legal  
18 correspondence. Bounds v. Smith, 430 U.S. 817, 824-25 (1977). However, to state a viable  
19 claim for relief, plaintiff must allege he suffered an actual injury, which is prejudice with respect  
20 to contemplated or existing litigation, such as the inability to meet a filing deadline or present a  
21 non-frivolous claim. Lewis v. Casey, 518 U.S. 343, 349 (1996).

#### 22 **V. Analysis**

23 In screening this amended complaint against multiple defendants at four different prisons,  
24 the court looks at the claims against the first named defendant and then determines what  
25 additional claim(s) have been properly joined to the claims against that defendant. See Coughlin  
26 v. Rogers, 130 F.3d 1348, 1350 (9th Cir. 1997). The court may dismiss any misjoined defendants  
27 without prejudice to the plaintiff’s filing of new, separate lawsuits against the dropped defendants.  
28 Id.; see Fed. R. Civ. P. 21 (“On motion or on its own, the court may at any time, on just terms,

1 add or drop a party.”).

2 The first named defendant in the amended complaint is defendant Cisneros who is  
3 employed as the warden at CSATF. The First Amendment retaliation claim against defendant  
4 Cisneros fails to state a claim for relief because it is based on supervisory liability. As the court  
5 previously explained to plaintiff, government officials may not be held liable for the  
6 unconstitutional conduct of their subordinates under a theory of respondeat superior. Ashcroft v.  
7 Iqbal, 556 U.S. 662, 677 (2009). As plaintiff has previously been granted leave to amend and has  
8 not been able to cure this defect, there does not appear to be any additional factual allegations that  
9 would adequately link the warden to the alleged acts of retaliation. Therefore, the undersigned  
10 recommends dismissing the First Amendment retaliation claim against defendant Cisneros  
11 without further leave to amend.

12 Plaintiff also alleges that defendant Cisneros ordered CSATF correctional officers to use  
13 excessive force against him on February 18, 2021. Based on the vague and conclusory  
14 allegations concerning this use of force, the court is unable to determine if they rise to the level of  
15 a cognizable Eighth Amendment violation. Plaintiff generally describes the type of force that was  
16 used against him and his resulting injuries, but he does not individually link each named  
17 defendant to any of these specific actions. Therefore, the court cannot discern whether the force  
18 used by each individual defendant was applied in a good-faith effort to maintain or restore  
19 discipline, or maliciously and sadistically to cause harm. Plaintiff will be granted one last  
20 opportunity to amend his complaint only with respect to the excessive force and failure to protect  
21 claims alleged to have occurred on February 18, 2021 involving defendants Cisneros, Leahy,  
22 Garcia, Tyler, Coronado, Sayama, Diaz, Brown, Dunn, Valdez and Knudson. Plaintiff is also  
23 granted leave to include any supplemental state law assault and battery claims arising from this  
24 same incident against these same defendants in the third amended complaint.

25 If plaintiff chooses to further amend his complaint, he should pay particular attention to  
26 the legal standard provided in this order for an excessive force claim. There can be no liability  
27 under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant’s  
28 actions and the claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976); May v. Enomoto, 633

1 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Furthermore,  
2 vague and conclusory allegations of official participation in civil rights violations are not  
3 sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

4 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to  
5 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended  
6 complaint be complete in itself without reference to any prior pleading. This is because, as a  
7 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375  
8 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no  
9 longer serves any function in the case. Therefore, in an amended complaint, as in an original  
10 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

11 The remaining allegations occurred at different prisons and on different dates. Although  
12 plaintiff alleges in a conclusory fashion that there is campaign of harassment against him by all  
13 named defendants, this is not sufficient to establish that these claims arise out of the same  
14 transaction or occurrence or involve a common question of law or fact. See Fed. R. Civ. P.  
15 20(a)(2). Accordingly, the undersigned finds that all of the defendants employed at Corcoran  
16 State Prison, Mule Creek, and CMF have been improperly joined to the present action and should  
17 be dismissed without prejudice to filing separate lawsuits against them.

#### 18 **VI. Motion for Temporary Restraining Order**

19 Now that the court has screened plaintiff's second amended complaint, the court turns to  
20 plaintiff's pending motion for a temporary restraining order. ECF No. 37. Plaintiff alleges that  
21 he is in imminent danger at CMF because another inmate attacked him on December 4, 2022 and  
22 other prisoners are threatening to harm him. As a result of this attack, plaintiff requested to be  
23 placed in protective custody at the prison. A subsequently filed a motion for emergency relief  
24 indicates that plaintiff was placed in protective custody, but the warden removed him from "max  
25 custody." ECF No. 40 at 3.

26 Since filing these motions, plaintiff has been transferred to Mule Creek State Prison. See  
27 ECF No. 44 (Notice of Change of Address). In light of plaintiff's change of address, the court  
28 has also considered plaintiff's motion for court intervention that was docketed on March 6, 2023.

1 ECF No. 48. These additional allegations indicate that plaintiff had mail returned to him that was  
2 addressed to various lawyers.

3 “The proper legal standard for preliminary injunctive relief requires a party to demonstrate  
4 ‘that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the  
5 absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction  
6 is in the public interest.’” Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing  
7 Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 22 (2008) (internal quotations omitted).

8 The Ninth Circuit’s sliding-scale test for a preliminary injunction has been incorporated into the  
9 Supreme Court’s four-part Winter’s standard. Alliance for Wild Rockies v. Cottrell, 632 F.3d  
10 1127, 1131 (9th Cir. 2011) (explaining that the sliding scale approach allowed a stronger showing  
11 of one element to offset a weaker showing of another element). “In other words, ‘serious  
12 questions going to the merits’ and a hardship balance that tips sharply towards the plaintiff can  
13 support issuance of an injunction, assuming the other two elements of the Winter test are also  
14 met.” Alliance, 632 F.3d at 1131-32 (citations omitted). Additionally, in cases brought by  
15 prisoners involving conditions of confinement, any preliminary injunction “must be narrowly  
16 drawn, extend no further than necessary to correct the harm the court finds requires preliminary  
17 relief, and be the least intrusive means necessary to correct the harm.” 18 U.S.C. § 3626(a)(2).

18 A motion for preliminary injunction must be supported by “[e]vidence that goes beyond the  
19 unverified allegations of the pleadings.” Fidelity Nat. Title Ins. Co. v. Castle, No. C-11-00896-  
20 SI, 2011 WL 5882878, \*3 (N.D. Cal. Nov. 23, 2011) (citing 9 Wright & Miller, Federal Practice  
21 & Procedure § 2949 (2011)). The plaintiff, as the moving party, bears the burden of establishing  
22 the merits of his or her claims. See Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008).

23 Plaintiff has not demonstrated that he is likely to succeed on the merits because the second  
24 amended complaint is being dismissed for failing to state any cognizable claim for relief.  
25 Additionally, plaintiff’s request for relief is now moot since he is no longer confined at CMF.  
26 Due to his transfer to a different prison, plaintiff cannot demonstrate any irreparable harm that  
27 will befall him in the absence of injunctive relief. See Zenith Radio Corp. v. Hazeltine Research,  
28 Inc., 395 U.S. 100, 130-31 (1969). For all these reasons, the undersigned recommends that

1 plaintiff's motions for emergency injunctive relief be denied without prejudice. ECF Nos. 37, 40,  
2 48.

### 3 **VII. Motion for Appointment of Counsel**

4 In a separately filed motion, plaintiff requests the appointment of counsel based on his  
5 placement in protective custody and confiscation of his property. ECF No. 42. In the motion,  
6 plaintiff argues that he needs a lawyer because he has no paper to write on. However, since that  
7 time, plaintiff has filed eight separate pleadings consisting of over 90 pages.

8 As plaintiff has been previously informed, district courts lack authority to require counsel  
9 to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist. Court, 490  
10 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to  
11 voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1); Terrell v. Brewer, 935 F.2d  
12 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).  
13 When determining whether "exceptional circumstances" exist, the court must consider plaintiff's  
14 likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro  
15 se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970  
16 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The  
17 burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances  
18 common to most prisoners, such as lack of legal education and limited law library access, do not  
19 establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

20 Having considered the factors under Palmer, the court finds that plaintiff has failed to  
21 meet his burden of demonstrating exceptional circumstances warranting the appointment of  
22 counsel at this time. His motion for the appointment of counsel is denied without prejudice.  
23 Plaintiff's subsequently filed motions for counsel are stricken from the docket as being filed in  
24 violation of this court's October 25, 2022 order limiting his pleadings.

25 **Plaintiff is once again cautioned against filing repetitious motions. Plaintiff's**  
26 **continued failure to heed this court's order limiting his filings will subject him to future**  
27 **sanctions including the possible dismissal of this action pursuant to Rule 41(b) of the**  
28 **Federal Rules of Civil Procedure.**

**VIII. Plain Language Summary for Pro Se Party**

The following information is meant to explain this order in plain English and is not intended as legal advice.

The court has reviewed your second amended complaint and determined that only the Eighth Amendment excessive force and failure to protect claims against defendants employed at CSATF should be allowed to proceed in a third amended complaint. It is recommended that the remaining defendants be dismissed from this action without prejudice because they have been improperly joined to the present suit. These claims against the remaining defendants at prisons other than CSATF may be raised in separate civil actions if you choose to file them.

If you disagree with this recommendation, you have 14 days to explain why it is not the correct outcome in your case. Label your explanation “Objections to Magistrate Judge’s Findings and Recommendations.” The district judge assigned your case will then review the case and make the final decision in this matter.

Accordingly, IT IS HEREBY ORDERED that:

1. The Eighth Amendment excessive force claim alleged to have occurred on February 18, 2021 involving defendants Cisneros, Leahy, Garcia, Tyler, Coronado, Sayama, Diaz, Brown, Dunn, Valdez and Knudson is dismissed for failing to state a claim upon which relief may be granted.
2. Plaintiff is granted thirty days from the date of this order to file a third amended complaint **limited to no more than 25 pages in length. Leave to amend is only granted with respect to the excessive force and failure to protect claims as well as any supplemental state law claim of assault and battery against defendants Cisneros, Leahy, Garcia, Tyler, Coronado, Sayama, Diaz, Brown, Dunn, Valdez and Knudson. Failure to file an amended complaint that complies with this order shall result in a recommendation that this action be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.**
3. Plaintiff’s motion for the appointment of counsel (ECF No. 42) is denied without prejudice.

4. Plaintiff's repetitious motions for counsel (ECF Nos. 50, 51) are stricken from the docket as being filed in violation of this court's October 25, 2022 order.

IT IS FURTHER RECOMMENDED that:

1. The First Amendment retaliation claim against defendant Cisernos be dismissed without further leave to amend for failing to state a claim upon which relief may be granted.
2. All defendants employed at Corcoran State Prison, Mule Creek, and CMF be dismissed without prejudice to filing new lawsuits based on their improper joinder to the present action.
3. Plaintiff's motions for emergency injunctive relief (ECF Nos. 37, 40, 48) be denied without prejudice.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to the objections shall be served and filed within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: April 11, 2023

  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE